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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/628,700      | 07/28/2003  | Jurgis Astrauskas    | 1007-0564           | 6235             |

7590 12/12/2006  
Maginot, Moore & Beck LLP  
Chase Tower, Suite 3250  
111 Monument Circle  
Indianapolis, IN 46204-5109

EXAMINER

TSO, EDWARD H

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2838

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 10/628,700             |  | ASTRAUSKAS          |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Edward H. Tso          |  | 2838                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-13 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 3,14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 8-13 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baur et al. (US 2003/0137279). The reference discloses a method and apparatus for slowing down the discharge of a battery having, *inter alia*, a battery 3, a monitoring unit 9, a switch 8 for coupling the battery to the load and further coupling to the status signal to indicate whether the load is in an active or inactive mode. The battery is cut-off from all processes whenever the load is in an inactive mode. See main figure.

It is however does not describe the load being a communication probe rather it is described only as a generic load. It would have been obvious to one having ordinary skill in the art to have substituted the generic load with the claimed communication probe since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Basically the crux of the invention lies on the functionality of the battery saver circuit rather than on the details of the communication probe.

It is further fails to disclose the aspect of charging of the batteries. It is a common knowledge in the art that batteries need recharging and the simplest technique of recharging the batteries is to plug the charger into an ac outlet. Therefore it would have been obvious to one having ordinary skill in the art to have recharged the battery through an ac outlet.

It is further fails to disclose whether the battery is a lithium battery or a disposable battery. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select any appropriate battery for the application-at-hand, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

### ***Allowable Subject Matter***

Claims 3, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

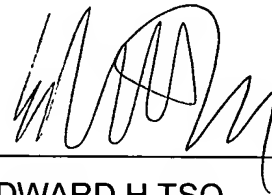
Applicant's arguments with respect to claims 1-6 and 8-20 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner at the below-listed number on every Tuesday, Thursday and Saturday.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (571) 272-2800, Monday-Friday, 8:30am to 5:00pm, EST.

By:

A handwritten signature in black ink, appearing to read 'EDWARD H TSO', written over a horizontal line.

EDWARD H TSO  
Primary Examiner  
(571) 272-2087